

Fiscal Service, Treasury

§ 355.3

355.8 Supplements, amendments or revisions.

AUTHORITY: 31 U.S.C. chapter 31; 12 U.S.C. 391.

SOURCE: 50 FR 42519, Oct. 21, 1985, unless otherwise noted.

§355.0 Applicability.

The regulations in this part prescribe the rights and liabilities of the United States, the Federal Reserve Banks, and others on fiscal agency checks. They apply to checks issued on behalf of the United States for payments in connection with United States securities. The checks are issued by a Federal Reserve Bank, in its capacity as fiscal agent of the United States. The checks are drawn on the payor Federal Reserve Bank in its banking capacity. They are referred to from time to time as fiscal agency checks. The drawer of a fiscal agency check is the United States; the drawee is a Federal Reserve Bank. Therefore, a fiscal agency check shall not be deemed to be drawn on the United States nor shall the Federal Reserve Bank be deemed its drawer.

§355.1 Governing law.

Except as otherwise provided by statute or this part, the regulations governing checks drawn on the United States or on designated depositories of the United States (e.g., 31 CFR parts 235, 240, 245, and 248) are inapplicable to fiscal agency checks. As to definitions and other matters not specifically covered in this part, fiscal agency checks are governed by Regulation J of the Board of Governors of the Federal Reserve System, 12 CFR part 210 ("Regulation J"), and to the extent not otherwise inconsistent with these regulations and Regulation J, the Uniform Commercial Code ("U.C.C."), as drafted by the National Conference of Commissioners on Uniform State Laws, and as both may from time to time be revised. Such matters include, but are not limited to, rules regarding general presentment and transfer warranties (as modified herein), indorsement, and final payment.

§355.2 Definitions.

Department means the United States Department of the Treasury.

Depository institution means an entity described in section 19(b) of the Federal Reserve Act.¹

Fiscal agency check means any check drawn upon a Reserve Bank and issued on the Department's behalf by the Reserve Bank in its capacity as fiscal agent of the United States for payments in connection with United States securities.

Payee means the person to whom a fiscal agency check is made payable.

Payor Reserve Bank means the Reserve Bank on which a fiscal agency check is drawn.

Presenting bank means a depository institution which sends a fiscal agency check directly to a Reserve Bank for payment or collection.

Reserve Bank or *Federal Reserve Bank* means any Federal Reserve Bank or any branch of a Federal Reserve Bank.

Security means a direct obligation of the United States, including Treasury bill, note, or savings bond/note.

§355.3 Presentment.

(a) *Manner of presentment.* Presentment of a fiscal agency check must be made to the payor Reserve Bank. Such Reserve Bank will cash a fiscal agency check over-the-counter only if presented by the payee and the payee can be reasonably identified to the satisfaction of the Reserve Bank. Otherwise, a fiscal agency check must be

¹Under section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)), the term *depository institution* means:

(i) Any insured bank as defined in 12 U.S.C. 1813 or any bank which is eligible to make application to become an insured bank under 12 U.S.C. 1815;

(ii) Any mutual savings bank as defined in 12 U.S.C. 1813 or any bank which is eligible to make application to become an insured bank under 12 U.S.C. 1815;

(iii) Any savings bank as defined in 12 U.S.C. 1813 or any bank which is eligible to make application to become an insured bank under 12 U.S.C. 1815;

(iv) Any insured credit union as defined in 12 U.S.C. 1752 or any credit union which is eligible to make application to become an insured credit union pursuant to 12 U.S.C. 1781;

(v) Any member as defined in 12 U.S.C. 1422; and

(vi) Any insured institution as defined in 12 U.S.C. 1724 or any institution which is eligible to make application to become an insured institution under 12 U.S.C. 1726.

presented through banking channels. A refusal to accept or pay a fiscal agency check presented over-the-counter by a person other than the payee or by a payee not reasonably identified does not constitute dishonor.

(b) *Time limit on presentment.* A payor Reserve Bank may refuse to pay a fiscal agency check presented to it more than six (6) months after the issue date on the check. A fiscal agency check not timely presented should be surrendered by the holder to the payor Reserve Bank with a request for issuance of a replacement check pursuant to § 355.5 (d) of this part.

§ 355.4 Presentment warranties.

(a) *Warranties under Regulation J and State law; modifications.* A presenting bank makes the warranties required of a sender under Subpart A of Regulation J. This paragraph does not limit any warranty by a presenter or other party arising under State law. Neither the Department nor a Reserve Bank is barred from recovering on a breach of warranty solely because:

(1) The negligence of the Department or of a Reserve Bank, as fiscal agent, had contributed to a fraudulent indorsement or material alteration;

(2) The Department or a Reserve Bank, as fiscal agent, had failed promptly to discover an unauthorized signature or alteration; or

(3) An imposter had fraudulently caused the issuance of a fiscal agency check in the name of any existing payee; or

(4) An employee of the Department or a Reserve Bank, as fiscal agent, had fraudulently caused the issuance of a fiscal agency check in the name of any existing payee.

(b) *Effect of breach of warranty.* In the event of a breach of warranty, the payor Reserve Bank may either return the item to the presenting bank or send to the presenting bank notice of the breach. If, upon receipt of the returned check or notice of breach, the presenting bank does not make prompt restitution, the Department may begin appropriate collection procedures.

§ 355.5 Notice and replacement—non-receipt, theft, loss or destruction; late presentment.

(a) *Notification.* If a fiscal agency check is not received by the payee within a reasonable time after a payment is due, or if the check is lost, stolen or destroyed, prompt notification thereof should be made to the payor Reserve Bank or directly to the Department, as appropriate. The notice may be given by telephone, but if it is given by telephone, such notice must be confirmed in writing before a replacement check is issued. The notification must contain sufficient information to enable the payor Reserve Bank or the Department to identify the account and/or the security to which the payment is related. Payment on a fiscal agency check will be stopped if the notice of non-receipt, loss, theft, or destruction is received at such time and in such manner as to afford the payor Reserve Bank a reasonable opportunity to act on it prior to final payment, as provided by applicable law.

(b) *Replacement action.* The payor Reserve Bank will issue a replacement fiscal agency check if:

(1) Written notice, as provided in paragraph (a) of this section, is submitted;

(2) The fiscal agency check is unpaid;

(3) It determines that recovery of the original check is unlikely; and

(4) The payee and endorsee, if any, of the check execute such indemnification agreement as may be required.

(c) *Recovery before replacement.* If prior to the issuance of a replacement fiscal agency check, the original check is recovered by the payee or any holder, and such recovery is confirmed in writing, the stop payment order against the check will be removed. If a replacement check was issued, the original check should be returned to the payor Reserve Bank.

(d) *Late presentment.* If a payor Reserve Bank refuses payment on a fiscal agency check solely as a result of § 355.3(b) of this part, a replacement check will be issued to a payee or holder upon surrender of the original check and execution of such indemnification agreement as may be required.